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## COMMERCIAL VEHICLE SAFETY ALLIANCE

### STATEMENT OF COMMANDER STEVE VAUGHN

JULY 18, 2001

#### I. INTRODUCTION

My name is Steve Vaughn, and I currently serve as the President of the Commercial Vehicle Safety Alliance (CVSA). I am also a Captain with the California Highway Patrol presently serving as the Commander of the Motor Transport Section. Thank you for holding this hearing and for inviting me to testify on behalf of CVSA and the State of California.

CVSA is an organization of commercial vehicle enforcement agencies and industry representatives in the U.S., Canada, and Mexico. Its mission is to achieve uniformity, compatibility and reciprocity of commercial vehicle inspections and enforcement activities throughout North America through effective motor carrier, driver, vehicle, cargo safety standards, compliance, education, and enforcement.

To briefly highlight some of our accomplishments since we were organized in 1980, we point to the development of the North American Uniform Inspection Standard; our internationally recognized inspection sticker that is awarded to commercial vehicles that are found to be defect free which serves as an effective roadside screening process; our uniform Out-of-Service Criteria; a complete training course and certification program for over 7,500 inspection officers in North America as well as standards for maintaining certification; uniform inspection procedures for vehicles transporting spent fuel and high level radioactive and transuranic waste; uniform cargo tank inspection procedures, and uniform bus inspection procedures.

While the Motor Carrier Safety Assistance Program (MCSAP) through its grant program to the states serves as the underpinning of a national commercial vehicle safety program, CVSA is the organization responsible for the uniform practices and procedures of this both national and international inspection and enforcement program. Without CVSA, the MCSAP program would not be the success that it is today.

Mr. Chairman, there are a wide range of issues with respect to NAFTA that I know you and other Members of the Committee want to discuss today. To assist with today's hearing, we have divided our comments into three parts which we believe should be considered. First, we will comment on the provisions of the very comprehensive NAFTA plan of the Senate Transportation Appropriations bill passed by the Appropriations Committee last week. Secondly, we will describe the approach to the NAFTA issue that CVSA as an organization has recommended since this issue rose to the forefront at the beginning of this year. Thirdly, I will describe in some detail how California has been handling the NAFTA issue since the early

1990's. As you know, my home state has been anticipating the opening of the border for some time and has committed significant state resources to the NAFTA effort.

We certainly appreciate the fact that the members of this Committee, the Senate Appropriations Committee, and indeed, all members of Congress want to be sure that the Mexican trucks that cross the border to do business throughout this country are safe and meet U.S. standards. We view the current process of debate and discussion on how to deal with this important issue as a constructive process. We are confident that in the end a final border plan will be produced that satisfies everyone's concerns and that will be fair to the United States and Mexico. As the leading safety enforcement association in North America, we pledge our cooperation and support to make this happen.

## II. SENATE APPROPRIATIONS COMMITTEE PLAN

Our review of the key provisions in the Appropriations bill dealing with NAFTA is as follows.

### A. SAFETY AUDITS

With respect to the requirement of a full safety compliance review of a Mexican carrier on site before entering the U.S., we would suggest that FMCSA's effort should begin with the current drayage operations (those carriers who are now conducting drayage operations and are applying for the additional authority to go beyond the commercial zones) because they are carriers that have already agreed to comply the Federal Motor Carrier Safety Regulations. Thus, they should be expected to already know U.S. safety requirements and have the supporting documentation and evidence with respect to drug testing procedures, maintenance programs, driver selection and training and all other major items that are checked when a compliance review is done on a carrier in the U.S. We offer our assistance in conducting these reviews.

The information and data gathered from these audits should be very helpful in determining an overall border enforcement plan both in the short and long term.

With respect to this provision, we offer one technical correction. There are only three U.S. carrier rating levels: satisfactory, conditional, and unsatisfactory.

### B. DRIVER LICENSE VERIFICATION

With respect to the requirement that Federal and State inspectors verify electronically the status and validity of the license for each driver of a Mexican motor carrier commercial vehicle, we believe this would be too burdensome on inspectors, result in excessive and unnecessary bottlenecks at the border, and would not sufficiently accomplish the intended affect. We recommend that the license check be done as a part of the complete vehicle and driver inspection process, rather than as a separate action. The purpose of this license check should be

to determine the validity of the Mexican driver's license.

#### C. DISTINCTIVE DOT TRANSPORTATION NUMBER FOR MEXICAN CARRIERS

We suggest that the purpose of assigning such identification number would be to enforce all Federal Motor Carrier Safety Regulations, not just the U.S. hours-of-service regulations.

#### D. REQUIREMENT THAT STATE MCSAP FUNDED INSPECTORS CHECK VIOLATIONS OF ALL U.S. FEDERAL REGULATIONS

We recommend that this provision be clarified to specify that these inspectors only check for violations of Federal Motor Carrier Safety Regulations (FMCSR) or those adopted by their home state that are compatible to the FMCSR. Enforcement of other federal regulations is the responsibility of the appropriate federal agency.

#### E. USE OF WEIGH-IN-MOTION (WIM) SYSTEMS AT ALL BORDER CROSSINGS

As much as we can appreciate the intent and purpose of this provision, after careful consideration, we would propose limiting such requirement to those crossings which have been designated by the state as commercial motor vehicle border crossings.

#### F. PROFICIENCY EXAMINATION REQUIREMENT FOR FOREIGN MOTOR CARRIERS AS WELL AS NEW CARRIERS IN THE U.S.

The term "proficiency" should be clearly defined.

#### G. NEW REGULATIONS FOR TRAINING AND CERTIFICATION OF MOTOR CARRIER SAFETY AUDITORS

We actively supported inclusion of this provision in the Motor Carrier Safety Act of 1999 and support going ahead with a rulemaking process as soon as possible as required in the Senate appropriations bill.

#### H. ESTABLISHMENT OF STANDARDS FOR DETERMINING THE APPROPRIATE NUMBER OF FEDERAL AND STATE INSPECTORS AT THE BORDER AND THE ON-DUTY REQUIREMENTS FOR THESE INSPECTORS

We understand the intent of Congress with respect to these issues and after careful deliberation with our border state members, we suggest that very serious consideration be given to limiting the opening of the border to Mexican carriers, at least in the first phase, to those crossings which have been designated by the state as commercial motor vehicle border crossings (2 in California, 1 in Arizona, 1 in New Mexico, and 9 in Texas). We think this is a way to more realistically both determine and fulfill the need for full time staffing as well as all other adequate

infrastructure requirements at the border. Furthermore, we believe the individual border states should be permitted flexibility in determining their staffing needs.

## I. INSPECTOR GENERAL CERTIFICATION

Finally, we support DOT Inspector General certification of all important safety measures as identified in the appropriations bill relative to the opening of the border.

## III. WHAT CVSA'S APPROACH TO NAFTA HAS BEEN

### A. NAFTA BORDER ISSUE REQUIRES INFORMATION AND EDUCATION FIRST

A fundamental approach when attempting to address the issue of transportation safety, regardless of mode, or whether national or international traffic, is to gather enough information so an accurate assessment of the necessary actions can be determined. This couldn't be more true than when faced with the challenge of assuring that Mexican trucks and buses that cross the border to do business throughout the United States are safe. Yet even though NAFTA has been a major topic of discussion over the last several years, there has been little, if any, information on the safety fitness of such carriers. The safety fitness of the Mexican operators currently doing business and being inspected along the borders today in the commercial zones may, or may not, be indicative of operators that may engage in long haul travel into the U.S. once the border is opened. We believe it is necessary to try and obtain the facts with respect to these carriers before the border is opened through a plan I will shortly describe.

This lack of information with respect to Mexican carriers is largely due to the fact that: 1) there have been few safety regulatory requirements placed on the Mexican industry which would be comparable to those placed on carriers in the United State and Canada until recently; 2) there are a limited number of personnel trained and continually performing oversight functions in Mexico; and 3) the current motor carrier safety information infrastructure has not been in place long enough to capture and record the data resulting from the oversight being performed by the Mexican government.

In addition to obtaining this needed information, we must at the same time lend our hand to help educate the Mexican carriers. Therefore, our strategy can be summed up as "gather information, plan, and educate". This strategy has been the hallmark of CVSA's approach to all safety challenges since it was created more than 20 years ago. It has been the key ingredient in the success we have had in getting not only all of the state jurisdictions in this country, but also, all of the Canadian provinces to agree to uniform and reciprocal North American enforcement standards and procedures. We have every reason to believe that this approach will succeed with Mexico as well.

Earlier this year CVSA developed a plan to specifically implement this overall strategy. Its key elements are as follows:

- In conjunction with Mexico, prepare an analysis of the Mexican government's current and planned safety regulations, policies, procedures and penalty structures as related to the oversight of the commercial vehicle industry.
- Conduct one-day "Case Studies" (audits) on the Mexican motor carriers seeking cross border authority. These on site-visits in Mexico will include the evaluation of company safety management practices, knowledge and compliance with U.S. regulations, vehicles inspections, driver selection and training, dispatch operations, maintenance programs, and overall company management. These "Case Studies" would be conducted on at least a representative number of those carriers (currently believed to number approximately 200 in total) that have applied for authority to operate in the U.S. beyond the commercial zones. Most importantly they would be conducted jointly with Mexican government officials.
- Conduct CVSA "Inspection Familiarization Seminars" at strategic locations across Mexico, to be coordinated with the Mexican government and CANACAR, CANAPAT, CONATRAM, and ANTP.
- Develop educational kits for motor carriers and drivers which could be provided during the case studies, inspection seminars and roadside inspections.
- Develop options for technology implementation that will facilitate freight and passenger movements across the borders and provide incentives for deployment.
- Create a database for recording and managing the information from the above activities. This information can be fed into the Motor Carrier Management Information System (MCMIS) so that both federal and state enforcement officials in both Mexico and the U.S. have access to the data. This will provide the basis for determining what the nature of high-risk Mexican motor carriers may be and to develop whatever appropriate roadside enforcement practices may be necessary at the border as well as in this country.

A more detailed description of the CVSA plan is attached at the end of this statement.

CVSA believes this plan can be implemented on a timely basis. It is possible for case studies to be done on a significant number of Mexican carriers in 60 to 90 days.

We feel that as an organization CVSA is uniquely qualified to be the lead partner in carrying out this plan. We are an international organization with members in Mexico and know how to approach matters from an international perspective. Mexican government officials are familiar with and have participated in CVSA activities and programs. The case studies would be performed by a team of at least four people: 2 U.S. CVSA state inspectors, 1 FMCSA

inspector, and a minimum of one representative of the Mexican government. We believe the CVSA plan will be more acceptable to the Mexicans than if it were to be solely presented to them as a plan of the U.S. Department of Transportation alone.

## B. THE NAFTA BORDER PLAN CANNOT JUST BE CONFINED TO RULEMAKING ALONE

As you are aware, the U.S. DOT has issued three recent notices of proposed rulemaking on NAFTA border issues. We have reservations about having so rigidly confined this process to rulemaking alone because this approach does not allow for the constructive and open dialogue necessary to address all of the safety concerns that are being expressed at today's hearing. To the best of our knowledge, the U.S. DOT did not consult or meet with key groups and organizations in this country, including CVSA a major safety enforcement partner, to obtain input on dealing with the NAFTA issue before assuring the current rulemaking. Certainly a rulemaking is not necessary to implement the key elements of the CVSA plan I have just described. To advance the cause of safety and to promote free and safe trade with our friends to the south, CVSA strongly believes that it will take cooperation from U.S., Canadian and Mexican federal government agencies, as well as state and provincial government agencies and industry. Safety is the responsibility of each of these groups and information sharing is critical to advancing the cause and ensuring the utmost contribution by each group.

## C. AN ANALYSIS OF THE CURRENT DOT PROPOSED NAFTA RULES

While CVSA recommends taking a proactive approach and identifying potential issues before the border opens, DOT suggests conducting similar activities after the border opens and places a greater burden on state inspectors. We believe that by conducting the research before the border opens, and by limiting border crossings, either by carrier or border locations, we can enhance safety on our highways.

To subject the Mexican carriers to a cursory paperwork review process at the border as the DOT proposes to be followed by intensive roadside monitoring through the inspection process after they commence operations throughout the United States does not reflect proper priority in assuring safety, nor does it adequately address the issue of safety compliance.

In addition, the DOT proposal prescribes "expedited action" to be taken against Mexican carriers operating in this country who do not meet seven criteria established in this rulemaking. The expectation by DOT is that the seven items will be identified by enforcement personnel during roadside inspections. In all seven cases, these items cannot currently be established at the roadside. Most of these criteria are violations that are discovered only during traditional Compliance Reviews done face to face with carrier management and at the carrier's place of business, not during roadside inspections. Drug testing is an excellent example. Review of detailed information at the carriers place of business establishes that the carrier has met, or did not meet, federal requirements. In addition, the ASPEN software and other systems such as the

Inspection Selection System used by roadside enforcement do not provide the inspector with the necessary information to assure compliance to the established criteria.

#### D. CURRENT STATE OF READINESS AT THE BORDER

Much of the discussion about NAFTA to date has been about adequacy of resources at the border including both inspectors and the infrastructure to support inspection activities. Progress is being made. My own state of California has certainly made a special effort in this regard which has been ongoing for many years and I will speak in more detail about California's efforts shortly. California's plan through the use of the CVSA inspection sticker ensures that every vehicle that crosses the border is inspected, at a minimum, once per quarter. The other border states are certainly making every effort to strengthen their resources. At this point, I will again put an option on the table we suggested in our comments on the Senate appropriations plan, and that is to initially open the border at only those crossings which have been designated by the state as commercial motor vehicle crossings.

Although the DOT and CVSA plans differ in timing and detail, the common element is a higher level of enforcement oversight at least in the short term. No matter what plan this Committee and the Congress may finally decide is appropriate, we must realize this is a one-time plan to deal with a very special set of circumstances. At some point in time after the border is open, it is certainly our goal and belief that operations between Mexico and the U.S. will be no different than our current operations with Canada. In the short term, we believe an approach that best ensures safety in this country, but one that is fair to the Mexican carriers, and provides support to the effort of the Mexican government officials can best benefit all involved parties. That is why our emphasis on education and outreach to them is such an important part of our plan and must go hand in hand with the on-site carrier reviews we recommend, or the safety audits recommended in the Senate Appropriations plan.

#### IV. CALIFORNIA COMMERCIAL MOTOR VEHICLE SAFETY PROGRAM NAFTA PREPARATION OVERVIEW

Since enactment of the NAFTA treaty, the Governor, and the Business, Transportation and Housing Agency (BT&H) of California, have continually supported the CHP's commercial vehicle inspection program. Recognizing that additional facilities, personnel, and equipment would be necessary to prepare for additional Mexican commercial motor vehicles crossing the border, the Administration approved and funded the addition of these resources.

BT&H, in anticipation of the implementation of NAFTA, directed the California Highway Patrol to begin the construction of the Calexico and Otay Mesa Inspection Facilities at a combined cost of approximately \$32.5 million. The Otay Mesa Inspection Facility opened in May 1996 and the Calexico Inspection Facility opened in December 1996. Their hours of operation mirror the hours of operation at the US Customs commercial port of entry. These facilities provide a means for commercial vehicle inspection personnel to immediately identify and correct

problems with drivers and commercial vehicles as they cross the border into California.

The CHP maintains a compliment of nine commercial officers and 15 commercial vehicle inspection specialists at the Otay Mesa Inspection Facility. Five commercial officers and 9 commercial vehicle inspection specialist have also been assigned to the Calexico Inspection Facility. In addition, the Governor has allocated funding to allow the CHP's Rainbow Inspection Facility (seven officers and 12 CVIS) and San Onofre Inspection Facility (11 officers and 20 CVIS) to expand their hours of operation and to enforce the NAFTA provisions of the Commercial Zone. Furthermore, six Mobile Road Enforcement officers are assigned north of the Commercial Zone (San Diego, Orange, and Imperial Counties) to enforce these regulations.

The California Highway Patrol offers Mexican Inspectors, Motor Carrier Specialists and trucking industry representatives with the opportunity to observe our inspection techniques. With the approval of the Administration, the CHP continues to provide Level 1 commercial vehicle inspection training to Mexican enforcement personnel at the Calexico and Otay Mesa Inspection Facilities, the Winterhaven Platform Scale, and at Tijuana and Mexicali.

The California Highway Patrol has continued to provide support to the Mexican trucking industry by both providing and participating in training seminars and industry events. Furthermore, industry support has been provided by maintaining an effective liaison with Mexican commercial vehicle enforcement representatives.

With the support of B,T & H, the California Highway Patrol continues to confer with governmental agencies of the United States and Mexico in an attempt to link their computerized Commercial Driver License and Commercial Vehicle Registration databases, while retaining the security of each country's databases.

Thanks in large part to the Administration's redirection of state funds, the CHP's commercial vehicle safety program has helped bring about an improved safety compliance rate of Mexican commercial vehicles operating in California. In fact, their out-of-service rate is comparable to US commercial vehicles entering California through the Otay Mesa and Calexico Inspection Facilities. Since 1999, the out-of-service rates for both country's commercial vehicles have remained consistently lower than the other border states. Mexican motor carriers want to comply with federal and state safety standards and try to maintain their vehicles to avoid paying higher US wages for towing and vehicle repair. However, some Mexican motor carriers understandably are experiencing difficulty interpreting the intricacies of federal and state regulations.

In 1996, the CHP developed a conversational Spanish training course with emphasis on commercial vehicle nomenclature. The class was provided to all field commercial enforcement officers and commercial vehicle inspection specialists. Departmental personnel also provided train-the-trainer training to law enforcement officers from Arizona, New Mexico and Texas



## **Enforcement Program**

In 1991 Assembly Bill (AB) 1355 was enacted in California which prohibits foreign based MCs from operating in California beyond specified commercial (border) zones without a Certificate of Registration (CR) issued by the ICC. The provisions of AB 1355 enacted California Vehicle Code (VC) Sections 34517 (Commercial Zones: Vehicles from other Countries) and 22651.4 (Foreign Commercial Vehicles: Impoundment).

The CHP conducts on- and off-highway commercial vehicle and driver inspection throughout the state. The CHP's commercial program currently consists of nearly 1,000 personnel involved in full-time enforcement of commercial vehicles. Approximately 240 officers and 280 non-uniformed Commercial Vehicle Inspection Specialists (CVIS) are dedicated to 19 Inspection Facilities and 34 platform scales statewide. An additional 250 non-uniformed Motor Carrier Specialist (MCS) are dedicated to the off-highway inspection of both truck and bus terminals. Finally, approximately 150 officers are funded each year by the Governor and are deployed as Mobile Road Enforcement officers throughout the state.

Through the efforts of these dedicated individuals, California commercial enforcement personnel continue to conduct nearly 22% of all roadside inspections. Governor Davis, BT&H Secretary Maria Contreras-Sweet, and Commissioner Dwight Helmick of the CHP have vowed their continued support for improving the safety on California highways and assuring that California is ready for the opening of the border with Mexico once the NAFTA issue is resolved.

Thank you for the opportunity to present this testimony today.

## **Statistics**

**OUT-OF-SERVICE STATISTICS FROM  
CALEXICO AND OTAY MESA INSPECTION FACILITIES  
(LEVEL ONE INSPECTIONS)**

**CALEXICO INSPECTION FACILITY**

MEXICAN MOTOR CARRIERS			UNITED STATES MOTOR CARRIERS		
1997		% OOS Rate	1997		% OOS Rate
Number of vehicles inspected	1,037		Number of vehicles inspected	2,160	
Number of drivers placed OOS	26	3 %	Number of drivers placed OOS	53	
Number of vehicles placed OOS	331	32 %	Number of vehicles placed OOS	691	
1998			1998		
Number of vehicles inspected	873		Number of vehicles inspected	2,771	
Number of drivers placed OOS	19	2 %	Number of drivers placed OOS	29	
Number of vehicles placed OOS	241	28 %	Number of vehicles placed OOS	831	
1999			1999		
Number of vehicles inspected	1,710		Number of vehicles inspected	2,256	
Number of drivers placed OOS	56	3 %	Number of drivers placed OOS	49	
Number of vehicles placed OOS	609	36 %	Number of vehicles placed OOS	710	
2000			2000		
Number of vehicles inspected	2,275		Number of vehicles inspected	2,113	
Number of drivers placed OOS	87	4 %	Number of drivers placed OOS	67	
Number of vehicles placed OOS	847	37 %	Number of vehicles placed OOS	712	
2001 YTD			2001 YTD		
Number of vehicles inspected	1,347		Number of vehicles inspected	1061	
Number of drivers placed OOS	16	1 %	Number of drivers placed OOS	16	
Number of vehicles placed OOS	431	32 %	Number of vehicles placed OOS	327	

**OTAY MESA INSPECTION FACILITY**

MEXICAN MOTOR CARRIERS			UNITED STATES MOTOR CARRIERS		
1997		% OOS Rate	1997		% OOS Rate
Number of vehicles inspected	8,568		Number of vehicles inspected	4,867	
Number of drivers placed OOS	220	3 %	Number of drivers placed OOS	104	
Number of vehicles placed OOS	2,511	29 %	Number of vehicles placed OOS	1,053	
1998			1998		
Number of vehicles inspected	10,653		Number of vehicles inspected	4,810	
Number of drivers placed OOS	206	2 %	Number of drivers placed OOS	71	
Number of vehicles placed OOS	2,860	27 %	Number of vehicles placed OOS	1,305	
1999			1999		
Number of vehicles inspected	10,101		Number of vehicles inspected	5,832	
Number of drivers placed OOS	197	2 %	Number of drivers placed OOS	43	
Number of vehicles placed OOS	2,638	26 %	Number of vehicles placed OOS	1,130	
2000			2000		
Number of vehicles inspected	9,089		Number of vehicles inspected	5,970	
Number of drivers placed OOS	120	1 %	Number of drivers placed OOS	26	
Number of vehicles placed OOS	2,068	23 %	Number of vehicles placed OOS	1,329	
2001 YTD			2001 YTD		

Number of vehicles inspected	4183		Number of vehicles inspected	3435	
Number of drivers placed OOS	50	1 %	Number of drivers placed OOS	17	
Number of vehicles placed OOS	1088	26 %	Number of vehicles placed OOS	824	

**CALEXICO AND OTAY MESA INSPECTION FACILITIES COMBINED**

MEXICAN MOTOR CARRIERS			UNITED STATES MOTOR CARRIERS		
1997		% OOS Rate	1997		% OOS Rate
Number of vehicles inspected	9,605		Number of vehicles inspected	7,027	
Number of drivers placed OOS	246	3 %	Number of drivers placed OOS	157	
Number of vehicles placed OOS	2,842	30 %	Number of vehicles placed OOS	1,744	
1998			1998		
Number of vehicles inspected	11,526		Number of vehicles inspected	7,581	
Number of drivers placed OOS	225	2 %	Number of drivers placed OOS	100	
Number of vehicles placed OOS	3,101	27 %	Number of vehicles placed OOS	2,136	
1999			1999		
Number of vehicles inspected	11,811		Number of vehicles inspected	8,088	
Number of drivers placed OOS	253	2 %	Number of drivers placed OOS	92	
Number of vehicles placed OOS	3,247	27 %	Number of vehicles placed OOS	1,840	
2000			2000		
Number of vehicles inspected	11,364		Number of vehicles inspected	8,083	
Number of drivers placed OOS	207	2 %	Number of drivers placed OOS	93	
Number of vehicles placed OOS	2,915	26 %	Number of vehicles placed OOS	2,041	
2001 YTD			2001 YTD		
Number of vehicles inspected	5530		Number of vehicles inspected	4496	
Number of drivers placed OOS	66	1 %	Number of drivers placed OOS	33	
Number of vehicles placed OOS	1519	27 %	Number of vehicles placed OOS	1151	